IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Crim.Rev. Application No. 501 of 2003
with
Crim.Application No.223 of 2004.

Shri Mahesh Jain ..Petitioner

vs.

1. Shri Limbayya Balayya
Sirapuram and anr. ..Respondents

Shri S.P.Kadam for petitioner
Shri S.S.Pednekar, A.P.P. for respondent no.2

CORAM: S.C.DHARMADHIARI J.
15th December,2006

P.C.

1. Heard Shri Kadam for the applicant. This is an application to challenge the order dated 4th June, 2001 in Case No.18/N/99.The order is passed by the learned Magistrate, 25th Court, Mazgaon.

2. The grievance of the applicant is that the learned Judge has disposed of the case exparte. It is contended that the case was transferred from 15th Court to 25th Court and was renumbered. The applicant was absent on 10th May,2001. He was told that case would be taken up on 14th June, 2001. However, when he was present on 14th June, 2001, it was informed that the case is already decided exparte.

3. He initially approached this Court and thereafter withdrew the writ petition and approached the learned Sessions Judge in revision. Even the revision application was not pursued in as much as when the same was fixed before the Sessions Court the applicant was absent. The learned Additional Sessions Judge, therefore, dismissed the application for want of prosecution.

4. In my view, this revision application does not disclose any reason as to why the impugned order should be set aside, when the applicant was
aggrieved by dismissal of the proceedings in his absence at the lower Court level chose to remain absent even before the learned Additional Sessions Judge. It appears that the Court below was constrained to dismiss the revision application because the applicant and his advocate remained absent repeatedly.

5. Even before me the matter was adjourned from time to time to enable the applicant’s Advocate to take instructions as to whether the applicant is interested in pursuing the proceedings. The matter appears to have arisen on account of the dispute over the immovable property. Since

there is no explanation forthcoming for the continued absence of the applicant it is not a fit case to exercise revisional jurisdiction. Revision application is summarily dismissed.

6. Interim order to stand vacated.

7. In view of the above order Crim.application No.223 of 2004 does not survive and hence rejected.

(S.C.DHARMADHIKARI J.)